



Edina Police Operations Manual

Policy Number
695.00

Subject:

INVESTIGATION OF CRIMINAL SEXUAL CONDUCT

Effective Date
10/10/2019

Revised Date
04/28/2020

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PURPOSE:

To provide department members with guidelines for responding to reports of criminal sexual conduct (CSC). The Edina Police Department will strive:

- a) To afford maximum protection and support to victims of sexual assault or abuse through a coordinated program of law enforcement and available victim services with an emphasis on a victim centered approach;
- b) To reaffirm peace officers' authority and responsibility to conducting thorough preliminary and follow up investigations and to make arrest decisions in accordance with established probable cause standards;
- c) To increase the opportunity for prosecution and victim services.

695.01

GENERAL STATEMENT OF POLICY

It is the policy of the Edina Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area.

695.02

DEFINITIONS

For purpose of this policy, the words and phrases in this section have the following meaning given to them, unless another intention clearly appears.

A. **Consent:** As defined by Minn. Stat. [609.341](#), which states:

1. Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.
2. A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute [609.341](#) cannot consent to a sexual act.
3. Corroboration of the victim's testimony is not required to show lack of consent.

B. **Child or Minor:** a person under the age of 18.

C. **Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.

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- D. **Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute [609.342](#) to [609.3451](#).
- E. **Family and Household Member:** As defined in Minn. Stat. [518B.01](#) Subd.2 (b) to include:
1. spouses or former spouses;
 2. parents and children;
 3. persons related by blood;
 4. persons who are presently residing together or who have resided together in the past;
 5. persons who have a child in common regardless of whether they have been married or have lived together at any time;
 6. a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
 7. persons involved in a significant romantic or sexual relationship
- F. **Sexual Assault Medical Forensic Examination:** An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.
- G. **Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. [595.02](#), subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. [595.02](#), subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
- H. **Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
- I. **Vulnerable Adult:** any person 18 years of age or older who:
1. is a resident inpatient of a facility as defined in Minn. Stat. [626.5572](#). Subd. 6;
 2. receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a

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person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter [253B.07](#), is not considered a vulnerable adult unless the person meets the requirements of clause (4);

3. receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625](#), [subdivision 19a](#), [256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
4. regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - i. that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - ii. because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

695.03 PROCEDURES

Dispatch Protocol

Information collection and timely dispatching are critical elements of domestic response. Dispatch personnel should inform the victim of ways to ensure the victim is safe and critical evidence is not lost. The following are suggestions of what information should be obtained:

- a) Determine if the suspect is still present.
- b) Determine if the victim is injured and if medical attention is needed.
- c) Obtain pertinent information regarding the location of the crime and victim information.
- d) Obtain information on the suspect.
- e) Relay all vital information to the responding officer(s).
- f) Reassure the victim that help is on the way.

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- g) Advise the victim of the importance of not disturbing the crime scene if possible.
- h) Suggest that the victim not bathe or clean themselves if the assault took place recently.

Subd. 2 PATROL RESPONSE

When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures. In addition, when interacting with victims, officers should consider the following:

- a) Offer compassion and empathy to encourage a positive rapport with the victim.
- b) If a victim wants to report a sexual assault, regardless of the jurisdiction the crime occurred, the officer shall assist the victim. If the assault just occurred (active crime scene or suspect) or if the victim would be in danger if not immediately dealt with, the officer should assist the victim in making contact with the appropriate agency. If there is no immediate needs to address, the officer shall take the initial report and Investigations will forward the case onto the proper agency.
- c) If an interpreter is needed, do not use children, family, friends or other witnesses. Call the Language Line, 1-800-523-1786, PIN # 909972.
- d) Suggest that the victim not bathe or clean him or herself if the assault took place recently.
- e) Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing (per department policy).
- f) Sexual Assault Nurse Examiners provide medical care and evidence collection at any ER in Hennepin County. Victims aged 13 and older may be examined at any ER in Hennepin County if the assault occurred within seven days. For children age 12 and under, please call the Hennepin Response Team (HART) at 612-873-5832 for guidance 24 hours a day.
- g) Law enforcement will not be present during the exam but can accompany/assist/transport victim to the hospital.

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- h) If incident is not recent (within seven days), medical follow-up should still be advised in order to address other potential issues, such as pregnancy, STDs, mental health, physical injuries.
- i) Respond to every victim of sexual assault with a professional, compassionate demeanor. Ask open ended questions.
- j) Collect any immediate evidence such as clothing, bed linens, condoms, or other items that may contain DNA. Explain to the victim why this is important.
- k) Photograph entire crime scene and any visible injuries on victim (for corroboration of details).
- l) Consider evidence preservation for suspects, including suspect exams.
- m) Obtain a medical release authorization form with victim's signature from the hospital.
- n) Collect and inventory the CSC kit as evidence.

Subd. 3 INVESTIGATIONS PROTOCOL

The Edina Police Investigations Division will conduct a compassionate, caring, and thorough investigation on all CSC cases to ensure that the victim gets proper support and justice is served. The following establishes the protocol to achieve a thorough investigation:

- a) All CSC reports will be assigned for investigative review.
- b) Assure that the correct evidence is sent for analysis.
- c) Keep the victim informed of the case status. In the event that the case is declined by the County Attorney, inform the victim of the reason for the declination. If the victim has further questions, refer the victim to the charging attorney.
- d) The Edina Police Department recognizes that victims of sexual assault due to their age or physical, mental, or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question and answer interviewing format with questioning nondirective as possible to elicit spontaneous responses.

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<div data-bbox="147 323 813 363"> <p>695.04 <u>SPECIAL CONSIDERATIONS</u></p> </div> <div data-bbox="183 396 1520 945"> <p>Subd. 1 This agency recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. Members of this agency will be alert for victims who would be best served by the use of these specialized interview techniques. Officers, in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim.</p> <p>Subd. 2 Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy</p> </div> <div data-bbox="139 980 837 1020"> <p>695.05 <u>PROTECTING VICTIM RIGHTS</u></p> </div> <div data-bbox="183 1054 1520 1934"> <p>Subd. 1 Confidentiality: Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. section 13.82, subd. 17(b).</p> <p>Subd. 2 Officers must provide the following information to the victim:</p> <ul style="list-style-type: none"> a) Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b); b) If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3; c) The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1; d) Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense. <p>Subd. 3 Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or</p> </div>	

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investigator or person handling the follow up.

Subd. 4 Language access: All officers shall follow agency policy regarding limited English proficiency.

695.06 **COLLECTION OF EVIDENCE FROM SUSPECT**

- Subd. 1** A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.
- a) Prior to or immediately after the preliminary suspect interview, photograph any injuries.
 - b) Determine whether a sexual assault medical forensic examination should be conducted.
 - c) Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
 - d) During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - 1. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - 2. Collect biological and trace evidence from the suspect's body;
 - 3. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
 - 4. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - 5. Document the suspect's relevant medical condition and injuries.

695.07 **ROLE OF THE SUPERVISOR**

Subd. 1 Supervisors may do the following:

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- a) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- b) Provide guidance and direction as needed.
- c) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.
- d) Case Review/Case Summary.

Subd. 2 A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- a) Case dispositions;
- b) Decisions to collect evidence;
- c) Submissions of evidence for lab testing;
- d) Interviewing decisions.